



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2022-0275]

RIN 1625-AA00

### Safety Zone; Cumberland River, Nashville, TN

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

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**SUMMARY:** The Coast Guard is establishing to a temporary safety zone from mile marker 191.1 to 191.5 of the Cumberland River. This action is necessary to provide for the safety of life on these navigable waters near Korean Veterans Bridge, Nashville, TN, during Music City Grand Prix on August 5 through August 7, 2022. This rulemaking prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

**DATES:** This rule is effective every day from 2 p.m. August 5, 2022 pm through 4:30 p.m. August 7, 2022. See SUPPLEMENTARY INFORMATION for specific daily enforcement times.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0275 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Petty Officer Third Class Benjamin Gardner and

Marine Safety Detachment Nashville, U.S. Coast Guard; telephone 615-736-5421, email Benjamin.t.gardner@uscg.mil.

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

The Coast Guard was notified by Indy Car of a proposed racing event that goes over the Cumberland River. The event would take place from August 5, 2022 to August 7, 2022. On August 5, 2022 the river closure would be from 2 p.m. until 6:30 p.m. On August 6, 2022 the river closure would be from 11 a.m. until 5p.m. On August 7, 2022 the river closure would be from 2 p.m. until 4:30 p.m. The Captain of the Port Sector Ohio Valley (COTP) has determined that there is a need to protect the river users while the Indy cars are on the track between mile marker 191.1 and mile marker 191.5 on the Cumberland River. In response, on April 20, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Cumberland River, Nashville, TN, USCG-2022-0275 (87 FR 24486). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this Indy Car race. During the comment period that ended May 26, 2022, we received 1 comment.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the Indy Car race will be a safety concern for anyone within a 0.4 mile radius of the Korean Veterans Bridge. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone

before, during, and after the scheduled event.

#### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received 1 comment on our NPRM published April 26, 2022. The comment stated, "We think this is a smart idea because the Coast Guard is accounting for the safety of the citizens in the Nashville area during these dates. Thank you for not only keeping our international waters safe but for also keeping us protected and secure close to home." This comment does not have any effect on our proposed rule and does not require any changes to the final rule.

This rule establishes a safety zone from that will be enforced from 2 p.m. until 6:30 p.m. on August 5, 2022, from 11 a.m. until 5 p.m. on August 6, 2022, and from 2 p.m. until 4:30 p.m. on August 7, 2022. The safety zone would cover all navigable waters within 0.4 miles of the Korean Veterans Bridge on the Cumberland River in Nashville, TN. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled Indy Car races. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

#### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

##### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, this rule has not been

reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. The safety zone will be 13 hours spread over the course of 3 days during daylight hours in Nashville, TN. The safety zone will only encompass .4 miles of the Cumberland River. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of the Cumberland River before or after the time of the events on each day. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rulemaking would allow vessels to seek permission to enter the zone.

#### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### *C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In

particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves 3 separate safety zones over the course of 3 days that in total will last for 13 hours. It is categorically excluded from further review under paragraph L[60]of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

#### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### **List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water) Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

**PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS  
AREAS**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5;

Department of Homeland Security Delegation No. 0170.1., Revision No. 01.2.

2. Add § 165.T08-0275 to read as follows:

§ 165.T08-0275 Safety Zone; Cumberland River, Nashville, TN

(a) *Location.* The following area is a safety zone: all navigable waters of the Cumberland River, Mile Markers 191.1-191.5, extending the entire width of the river.

(b) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF Channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(c) *Enforcement period.* This section will be enforced on:

(1) August 5, 2022 from 2 p.m. until 6:30 p.m.;

(2) August 6, 2022 from 11 a.m. until 5 p.m.; and

(3) August 7, 2022 from 2 p.m. until 4:30 p.m.

Dated: July 25, 2022

H.R. Mattern,  
Captain, U.S. Coast Guard,  
Captain of the Port Sector Ohio Valley

